

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FELECIA COOKS

PLAINTIFF

v.

No. 4:06CV001262 GH

LITTLE ROCK HOUSING AUTHORITY

DEFENDANT

ORDER

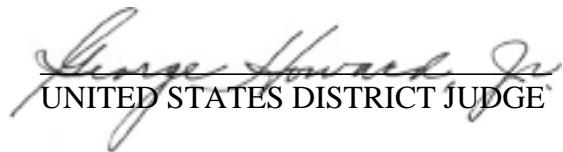
On October 17th, defendant filed a motion for judgment on the pleadings on the ground that plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission on August 8th asserting that she was discharged on January 23rd – which is 197 days earlier – because of sex and retaliation. Defendant asserts that as the EEOC charge was not filed until more than 180 days after the alleged unlawful employment action, plaintiff's claims are time-barred.

Plaintiff has filed responses with exhibits on October 31st and November 9th. She asserts that she called the EEOC toll free number on July 10th and was told that her report would be faxed to the office in Little Rock, but it was instead faxed to Birmingham, Alabama; after following up with a phone call and learning that the fax had arrived at the wrong office, plaintiff was advised what information she should include in a hard copy; and plaintiff never received a letter in response and so called and received an appointment for August 8th. Plaintiff argues that, due to the misconduct of the EEOC, her filing deadline should be tolled.

Based on the current record, the Court is persuaded that factual questions have been raised as to plaintiff's contacts with the EEOC that must be resolved thereby precluding judgment on the pleadings.

Accordingly, defendant's October 17th motion (#11) for judgment on the pleadings is hereby denied.

IT IS SO ORDERED this 16th day of November, 2006.



George Howard, Jr.
UNITED STATES DISTRICT JUDGE